



**KANSAS BAR
ASSOCIATION**

TO: **The Honorable John Barker, Chair**
 And Members of the House Judiciary Committee

FROM: **Joseph N. Molina**
 On behalf of the Kansas Bar Association

RE: **HB 2114 – Civil Procedure; Nonparty Business Record Notice**

DATE: **February 5, 2015**

Good afternoon Chairman Barker and Members of the House Judiciary Committee. I am Joseph Molina and on behalf of the Kansas Bar Association I provide this written testimony in **SUPPORT** of HB 2114, relating to Non-party business record notice.

The Kansas Bar Association supports HB 2114 because it provides proper notice to all individuals concerning their private business information. Currently, KSA 60-245a allows “any party” to request production of business records from a nonparty through the business subpoena process without notification. The KBA believes that KSA 60-245a is overly broad and can be corrected by simply requiring the requesting party to provide notice to the non-party. In addition, HB 2114 provides proper safeguards by requiring the subpoena be issued by order of the court.

The KBA is aware of concerns from various law enforcement entities that routinely investigate criminal activity using this civil subpoena process. The KBA is amendable to an exception which will allow law enforcement to continue the use of this subpoena process in furtherance of their investigative goals so long as this exception incorporates the current requirements on prosecutors to share discovery and exculpatory evidence with defendants as provided by law.

On behalf of the Kansas Bar Association, I thank you for your time this morning and would be available to respond to questions.

About the Kansas Bar Association:

The Kansas Bar Association (KBA) was founded in 1882 as a voluntary association for dedicated legal professionals and has more than 7,200 members, including lawyers, judges, law students, and paralegals. www.ksbar.org